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TAGS: [ETRD](#) [KIPR](#) [ECON](#) [NO](#)  
SUBJECT: SPECIAL 301: PHARMACEUTICAL PATENT PROBLEM IN NORWAY

REF: A) 06 OSLO 1350 B) 06 OSLO 206

¶1. (SBU) Post agrees with the pharmaceutical industry's concerns about weak patent protections for many branded drugs in Norway (per the trade group "PhRMA's" Special 301 submission for 2007). Post has been working closely with local U.S. representatives of U.S. pharmaceutical firms and engaging the Norwegian government to try to resolve the issue for two years. The issue has been on the agenda at key trade and economic meetings between U.S. and Norwegian officials, including at last May's Informal Commercial Exchange talks between the Commerce Department and Norway's Ministry of Trade and Industry and EEB Assistant Secretary Daniel Sullivan's bilateral meeting with Deputy Foreign Minister Liv Monica Stubholt last October (ref A). The Ambassador has raised the issue with senior GON officials, including the Minister of Trade and Industry and, just yesterday (February 28), the Minister of Finance. The Ambassador has given radio interviews and Post has issued press releases laying out the facts and encouraging change. The Ambassador has met with and visited affected companies, including Merck, which lost 20 percent of its local revenues after its preliminary injunction motion for patent infringement against a generic copycat competitor was denied. During last year's Special 301 deliberations, Post informed GON officials that Norway was at risk of inclusion on the Watch List in an effort to induce change (ref B). Other Embassies representing countries whose firms are similarly affected, most notably the UK and Switzerland, have cooperated with Post in an effort to press the case. The UK and Swiss Embassies joined us in a joint written appeal to the GON last June to strengthen patent protections for pharmaceuticals, and the Danish Embassy has told us they are engaged in "quiet diplomacy" on the issue.

¶2. (SBU) Norway has rebuffed every approach. Post believes that without concerted high-level pressure from Washington and other concerned capitals, including London, Bern and others (Post understands that firms from France, Denmark, Germany and Sweden are also affected), Norway will not adopt the changes we seek. Therefore, Post supports including Norway on this year's Special 301 Watch List.

¶3. (SBU) Post understands that Washington agencies do not accept PhRMA's assertion that Norway's patent policies raise Trade-Related Aspects of Intellectual Property Rights

Agreement concerns. Post has no opinion on the legal argument, and has not made that point to GON interlocutors. Post's arguments have centered more on the importance of protecting IPR rights to encourage innovation and Norway's role as a "free rider," i.e. one of Europe's wealthiest societies unfairly saving on its socialized medical system costs at the expense of foreign firms and other nations whose citizens pay higher prices for patented pharmaceuticals. (For fuller details on the background of the issue, see ref B.)

WHITNEY